

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BTL INDUSTRIES, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 19-2356 (CFC)
)	
ALLERGAN USA, INC., ALLERGAN,)	
INC., ZELTIQ AESTHETICS, INC. and)	
ZIMMER MEDIZINSYSTEME GMBH,)	
)	
Defendants.)	
)	

**STIPULATION TO STAY PENDING RESOLUTION OF
PROCEEDINGS AT THE INTERNATIONAL TRADE COMMISSION**

Plaintiff BTL Industries, Inc. (“BTL”) and Defendants Allergan USA, Inc., Allergan, Inc., Zeltiq Aesthetics, Inc., and Zimmer Medizinsysteme GMBH (collectively, “Defendants”) hereby stipulate, subject to approval of the Court, to stay this civil action in its entirety until a parallel proceeding before the United States International Trade Commission (“ITC”) becomes final, including all appeals.

On December 26, 2019, BTL brought this civil action against Defendants, asserting infringement of U.S. Patent Nos. 10,478,634 (the “’634 patent”) and 10,493,293 (the “’293 patent”). (D.I. 1.) On August 5, 2020, BTL filed a complaint with the ITC under Section 337 of the Tariff Act of 1930, alleging that Defendants infringe the ’634 patent and other patents. On September 2, 2020, the ITC issued a Notice of Institution of Investigation for an investigation entitled: In The Matter Of Certain Non-Invasive Aesthetic Body-Contouring Devices, Components Thereof, And Methods Of Using Same, Inv. No. 337-TA-1219 (“the ITC investigation”). *See* Ex. A, Notice of Institution of Investigation, Inv. No. 337-TA-1219.

Pursuant to 28 U.S.C. § 1659, a stay of this civil action with respect to the '634 patent is mandatory because each of the Defendants in this civil action is a named respondent in the ITC investigation, this civil action involves allegations of infringement of the same '634 patent as the ITC investigation, and the request for a stay is timely (within 30 days of the September 2, 2020, Notice of Institution of Investigation).

Further, the parties believe it would be appropriate to stay BTL's claims of infringement of the '293 patent in this civil action pending resolution of the ITC investigation (Inv. No. 337-TA-1219) involving the '634 patent. The '293 patent and the '634 patent have common named inventors and involve similar technology. As a result, BTL's claims as to both patents and Defendants' defenses thereto may involve common factual and legal issues. Thus, to avoid piecemeal litigation and to conserve the Court's and the parties' resources, the parties respectfully request that the Court exercise its discretion to stay this civil action with respect to the '293 patent until the resolution of the ITC investigation.

Therefore, the parties respectfully request the Court stay this civil action in its entirety until thirty (30) days after the determination of the ITC becomes final under 28 U.S.C. § 1659.

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